FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 252/2007

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 30, 2007.

Heard Shri Agarwal, the learned A.G.P., for the appellant/State, and Shri G.P. Naphade for the respondents.

This appeal is preferred against the judgment passed by the Civil Judge, Sr. Dn., Khamgaon on 23/7/2003, in Land Acquisition Case No. 15/2000. The Land Acquisition Officer, by the Award dated 15/1/1999, had awarded compensation at the rate of Rs. 20,000/- per hectare. Being dissatisfied with the same, the respondents had filed reference petition. The reference Court, by the judgment dated 23/7/2003, enhanced the compensation and granted it @ Rs. 35,000/- per hectare. The State has challenged the judgment and Award dated 23/7/2003 in this first appeal.

The reference Court found that the Award passed by the Land Acquisition Officer was arbitrary and the compensation granted to the respondent,

was grossly inadequate. Reference Court, on the consideration of the evidence tendered by the parties on record, came to a conclusion that the respondents were entitled to compensation @ Rs. 35,000/- per hectare as the sale instances of comparable lands, showed that the lands were sold @ Rs. 50,000/- per hectare approximately. The extract of sale index was produced on record. A sale instance was also produced at Article A which showed that the market value of the adjoining land was Rs. 1 lakh per hectare. Reference Court, however, rightly discarded the evidence at Article A on the ground that this sale instance was between the brothers. It was rightly rejected by the reference Court as the sale instances was of a much later date i.e. the sale was effected in the year 2000, whereas the notification under Section 4 was issued in this case on 16/1/1997. The Court, therefore, discarded the evidence at Art. A, but relied on the other extract of sale instances produced by the respondents on record. After considering the other sale instances which were effected in the year 1995 and 1996, the reference Court arrived at a conclusion that the market value of the land was Rs. 50,000/- at the relevant time. The reference Court, however, held that the lands which fetched Rs. 50,000/- per hectare were irrigated lands and were having fruit bearing trees. Therefore, the

reference Court rightly granted compensation to the respondents at the rate of Rs. 35,000/- per hectare.

I find no fault with the judgment passed by the reference Court. In turn, the compensation granted to the respondents is just and reasonable.

Since the first appeal is devoid of any merits, same is dismissed with no order as to costs.

JUDGE

RMP